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Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets to the countries of origin

Report of the Secretary-General

Summary

The present report has been prepared pursuant to General Assembly resolution 60/207 of 22 December 2005, entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption". It provides a brief background on the entry into force of the United Nations Convention against Corruption and the process leading towards the first session of the Conference of the States Parties as the Convention's implementation mechanism. The report highlights effective coordination of anti-corruption initiatives as an important element of reviewing the implementation of the Convention. It gives an overview of the ongoing efforts by the international community to estimate the scale of corruption and its impact on development and economic growth. The report contains a summary of prominent issues related to asset recovery and reflects on the findings of two case studies conducted in Kenya and Nigeria. It concludes with a set of recommendations on the way forward.

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Contents

		Paragraphs	Page
I.	Introduction	1-3	3
II.	United Nations Convention against Corruption	4-6	4
	A. Status of ratification	4	4
	B. Towards a mechanism for effective implementation: the Conference of the States Parties	5-6	5
III.	Effective coordination of anti-corruption initiatives	7-10	5
	A. A mechanism for coordination: the International Group for Anti-Corruption Coordination	8	5
	B. Global compact: the tenth principle	9-10	6
IV.	Estimating the scale of corruption and its impact on development and economic growth	11-17	7
V.	Recovering assets derived from corruption	18-35	9
	A. Obstacles in existing asset recovery practice	18-22	9
	B. Nigeria and Kenya: two case studies	23-26	10
	C. Asset recovery as a fundamental principle of the Convention	27-35	10
VI.	Conclusions and recommendations: the way forward	36-39	12

I. Introduction

1. In its resolution 60/207 of 22 December 2005, the General Assembly welcomed the entry into force on 14 December 2005 of the United Nations Convention against Corruption (General Assembly resolution 58/4, annex); reiterated its invitation to all Member States and competent regional economic integration organizations within the limits of their competence to ratify or accede to and fully implement the Convention as soon as possible; encouraged all Governments to prevent, combat and penalize corruption in all its forms, including bribery, money-laundering and the transfer of illicitly acquired assets, and to work for the prompt return of such assets through asset recovery consistent with the principles of the United Nations Convention against Corruption; further encouraged subregional and regional cooperation, where appropriate, in the efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin as well as for asset recovery; called for further international cooperation, inter alia, through the United Nations system, in support of those efforts; encouraged Member States to provide adequate financial and human resources to the United Nations Office on Drugs and Crime (UNODC); reiterated its request to the international community to provide, inter alia, technical assistance to support national efforts to strengthen human and institutional capacity aimed at preventing and combating corrupt practices and the transfer of assets of illicit origin as well as for asset recovery; welcomed the actions taken by the private sector, at both the international and the national levels, to remain fully engaged in the fight against corruption, and took note with appreciation of the work undertaken by the Global Compact in its consideration of its tenth principle, on anti-corruption; expressed concern about the magnitude of corruption at all levels, including the scale of the transfer of assets of illicit origin derived from corruption, and in that regard reiterated its commitment to preventing and combating corrupt practices at all levels; requested the Secretary-General to submit to the General Assembly at its sixty-first session a report on the implementation of the resolution, and to elaborate further on the magnitude of corruption at all levels, including the scale of the transfer of assets of illicit origin derived from corruption and the impact of such transfers on economic growth and sustainable development; and decided to include in the provisional agenda of its sixty-first session, under the item entitled "Globalization and interdependence", a sub-item entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption".

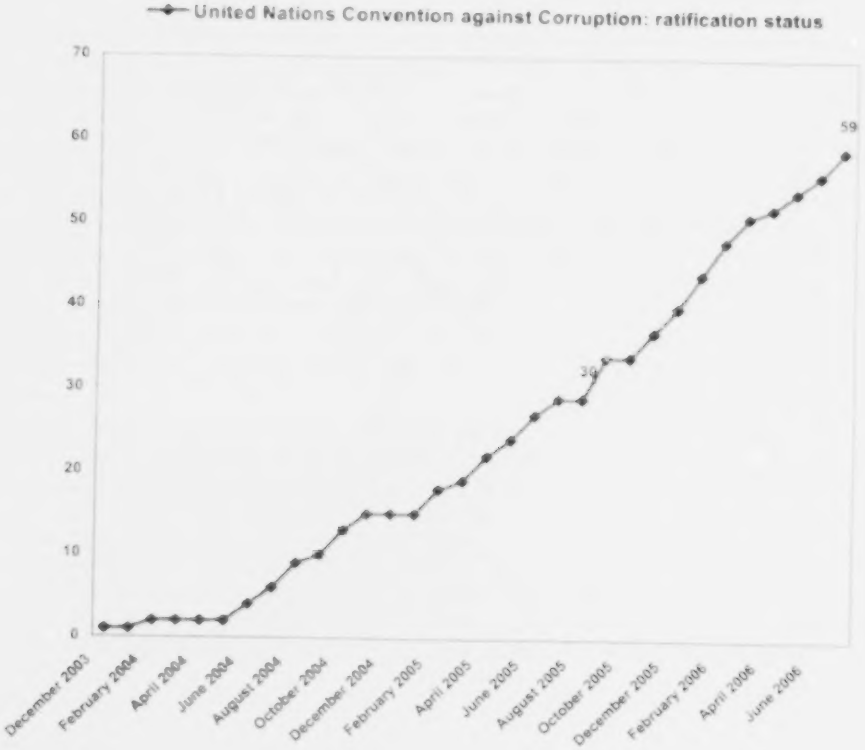
2. Pursuant to General Assembly resolution 59/242 of 22 December 2004, a report on preventing and combating corrupt practices and transfer of assets of illicit origin was submitted to the Assembly at its sixtieth session (A/60/157). That report summarized the responses received from 18 Member States. Prior to that report, other reports on the subject had been submitted to the Assembly at its fifty-sixth to fifty-ninth sessions (A/56/403 and Add.1, A/57/158 and Add.1 and 2, A/58/125 and A/59/203 and Add.1), which reflected a total of 76 responses received from Member States, containing information on domestic legislation and reform plans, institutional arrangements and adherence to relevant international legal instruments.

3. The present report contains an update on the status of ratification of the United Nations Convention against Corruption and preparations for the first session of the Conference of the States Parties to the Convention. In light of the future work of the Conference, the report also reflects on the need for coordination of ongoing anti-corruption initiatives. It provides information on attempts and methodologies used to estimate the scale of corruption and its impact on development and economic growth, summarizes current efforts to recover assets derived from corruption and suggests how the implementation of chapter V of the Convention, on asset recovery, could have an impact on the return of those funds. It concludes with recommendations on the way forward.

II. United Nations Convention against Corruption

A. Status of ratification

4. Just one year after being opened for signature in December 2004, the Convention against Corruption entered into force on 14 December 2005. As at 30 June 2006, there were a total number of 140 signatories and 59 parties to the Convention. The swift entry into force and the rapid increase in the number of parties gives hope that the Convention has the potential for universal adherence, thus making it a truly global instrument against corruption.



B. Towards a mechanism for effective implementation: the Conference of the States Parties

5. In article 63, the Convention established its own implementation mechanism, the Conference of the States Parties. Within one year from the entry into force of the Convention, that body is to be operational. The Conference has a broad and challenging mandate. Keeping in mind that the Convention is the first global instrument of its kind, the Conference provides a unique platform for Member States to discuss effective action against corruption and a framework for international cooperation. The Conference will have to define the most efficient and effective way of reviewing the implementation of the Convention. It will function not only as a review body, but also as a forum for States, in particular developing countries and countries with economies in transition, to highlight the difficulties they face with implementation and to seek technical assistance to overcome such difficulties.

6. A crucial aspect for achieving full implementation of the Convention is to ensure the widest possible participation of developed and developing countries from all regions in the Conference of the States Parties. Most of the ratifications already deposited come from developing countries. For effective implementation of the Convention, it will be essential for the Conference of the States Parties to be able to count on a large number of additional ratifications or accessions by States from all regions of the world. A lack of equilibrium would be likely to affect the functioning of the Conference and the ability of that body to promote the implementation of the Convention effectively.

III. Effective coordination of anti-corruption initiatives

7. Effective coordination is essential in order to ensure that the resources available to prevent and fight corruption are used in an efficient manner, thus avoiding duplication and overlap. Many international, regional and national bodies have developed specialized areas of expertise in preventing and combating corruption that are relevant for the implementation of the Convention against Corruption. When looking into technical assistance, the Conference of the States Parties will need to have information on those initiatives, in order to play a role in facilitating and brokering between those who need and request assistance and those who have the expertise and resources to provide it.

A. A mechanism for coordination: the International Group for Anti-Corruption Coordination

8. In 2002, UNODC launched an inter-agency anti-corruption coordination initiative to improve the impact of efforts to counter corruption. The International Group for Anti-Corruption Coordination was established as a platform for systematic and continuing coordination and cooperation at the international level. The Group aims to strengthen international coordination and collaboration in order to avoid duplication and ensure effective and efficient use of resources, using systems already in place at the regional and national levels. It provides a forum for

an exchange of views, information, experiences and "best practice" on anti-corruption activities and for the promotion of the implementation of the Convention against Corruption. It is composed of organizations and non-governmental organizations internationally active in development of policy, advocacy and enforcement against corruption. Since 2002, UNODC, in collaboration with the Office of Internal Oversight Services of the Secretariat, has organized and conducted eight meetings of the Group, attended by more than 40 international organizations active in combating corruption, including the Commonwealth Secretariat, the Council of Europe, the Department of Economic and Social Affairs of the Secretariat, the European Commission, the European Police Office (Europol), Interpol, the International Monetary Fund (IMF), the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the United Nations Development Programme (UNDP), the World Bank and regional development banks. The Group has led to an increased number of UNODC projects carried out in collaboration with other members of the Group and has strengthened UNODC's profile as the custodian of the Convention against Corruption.

B. Global Compact: the tenth principle

9. In addition to the efforts to coordinate public sector anti-corruption initiatives, the Global Compact has recognized action against corruption as an area where the private sector should play an important role. The Global Compact tenth principle states: "Business should work against corruption in all its forms, including extortion and bribery." The addition of this principle means that all Global Compact participants pledge to incorporate preventive programmes into their business operations. Since the introduction of the principle in June 2004, the Global Compact Office has focused on recommending tools for implementation of anti-corruption programmes and on providing a learning platform for exchange of experiences. It has facilitated and initiated collective action among stakeholders by setting up a global multi-stakeholder working group on the tenth principle. In December 2004, the Global Compact Office issued a first set of guidelines advising on company action, which actively encouraged companies to promote the implementation of the Convention against Corruption. Furthermore, a publication showcasing good corporate and stakeholder practices in implementing the tenth principle, entitled *Business against Corruption: Case Stories and Examples* was published by the Global Compact with the support of UNODC in April 2006. (The publication is available at http://www.unglobalcompact.org/Issues/transparency_anticorruption/Publications_x_Documents.html).

10. Global Compact national networks have initiated similar activities at the local level. Regional awareness-raising events focusing on the tenth principle have been held in Africa and China.[1] Activities for 2006 will focus on national anti-corruption initiatives through Global Compact networks and the provision of tools for small and medium-sized enterprises in preventing corruption.

IV. Estimating the scale of corruption and its impact on development and economic growth

11. People in both developing and developed countries have become increasingly frustrated as they witness and suffer the effects of corruption. The loss of confidence in institutions and the de-legitimization of government have destructive consequences that can span generations. The research on the economic consequences of corruption has focused on the detrimental impact of corruption on economic growth, efficiency, equity and welfare.[2] Whatever the socio-political and economic system, it appears that each system produces its own version of corruption and no system is corruption-free.

12. Corruption undermines ethical principles, rewards those willing and able to pay bribes for their own benefit and perpetuates inequality. The result is that individuals who wish to conduct their affairs honestly are demoralized and lose faith in the rule of law. Competition is distorted and the quality of products and services tends to deteriorate. National budgets are severely depleted and rules and regulations designed to enhance social responsibility of corporations and other businesses are undercut and undermined.

13. While corruption is found in all countries, its effects are most destructive in the developing world. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a Government's ability to provide basic services and feeding inequality and injustice. Corruption is a key element in economic underperformance—and a major obstacle to development. The severe consequences of corruption are well known: it undermines foreign aid, drains currency reserves, reduces the tax base, harms competition, discourages investment while encouraging capital flight, weakens free trade and increases poverty levels.

14. "Corruption is inimical to development. It constrains our ability to fight poverty, negatively affects economic development, damages social values and undermines democracy and good governance."[3] Developing countries and countries with economies in transition are more reliant on development aid and, at the same time, more vulnerable to its diversion. The African Union estimates that around 25 per cent of Africa's annual gross domestic product (GDP) is lost to corruption—around $148 billion—and that this is stifling the continent's chances of taking off economically.[4] Empirical work commissioned by UNDP on the role of corruption and laundering of its proceeds in development confirms that "corruption affects growth predominantly through its effect on the level of investment".[5] Economic growth is largely reliant on investment, the performance of the private sector and a conducive environment. Corrupt practices influence economic decline. According to a survey of African firms carried out by the World Bank, 35 per cent of firms in Algeria, 51 per cent of firms in Uganda, 39 per cent of firms in Ethiopia, 40 per cent of firms in Senegal, 46 per cent of firms in Zambia, 51 per cent of firms in the United Republic of Tanzania and 73 per cent of firms in Kenya mention corruption as a major or very severe constraint on business.[6] A corrupt environment, the public diversion of development aid and an extra "layer of taxation" on business, severely hinder sustainable development and economic growth.[7] Countries with inefficient regulatory environments and high levels of corruption tend to have informal economies in excess of 40 per cent of GDP.

15. The diversion of illicitly obtained assets outside the country has become another common consequence of corruption. According to the Nairobi Declaration on International Obligations and on the Recovery and Repatriation of Africa's Stolen Wealth, adopted by Transparency International at a meeting held in Nairobi on 6 and 7 April 2006, an estimated $140 billion have been misappropriated and transferred abroad over the decades. The IMF has estimated that the total amount of money laundered on an annual basis amounts to the equivalent of 3-5 per cent of the world's GDP. Recent cases of asset looting suggest dimensions that are able to destroy national economies. For instance, it has been reported that the former President of the Republic of Zaire, Mobutu Sese Seko, looted the treasury of some $5 billion—an amount equal to the country's external debt at the time (see A/CONF.203/6, para. 24). According to the Government of Peru, some $227 million was stolen and transferred abroad under the Government of Alberto Fujimori (see A/CONF.203/6, para. 24, and A/AC.261/12, para. 10). The macro-economic dimension of the looting and its impact on the economic development of a country also becomes evident in the case of Nigeria, where President Olusegun Obasanjo has publicly estimated that the late Sani Abacha had "siphoned $2.3 billion from the treasury, awarded contracts worth $1 billion to front companies and taken $1 billion in bribes from foreign contractors".[8] Having been only one corrupt actor among many, the Government of Nigeria has estimated that during the past decades $100 billion have been looted from the country.[9] This is especially worrying, taking into account that the country's foreign debt amounts to approximately $28 billion and that it had an estimated GDP of around $41.1 billion in 2003. International banks play a key role in this context. In late 2000 and early 2001, the British Financial Services Authority and the Swiss Federal Banking Commission found "severe control weaknesses" in many of the banks involved in handling the monies diverted from Nigeria.[10]

16. Looking at the scale of the impact of corruption from another angle, a World Bank study on the ramifications of corruption for service delivery argues that an improvement of one standard deviation in the corruption index of the International Country Risk Guide leads to a 29 per cent decrease in infant mortality rates, a 52 per cent increase in satisfaction among recipients of public health care, and a 30-60 per cent increase in public satisfaction stemming from improved road conditions.[11] The study concludes that, by distorting the rule of law and weakening the institutional foundations of economic growth, corruption and asset looting are the greatest obstacle to economic and social development. The harmful effects are especially severe on the poor, who are the hardest hit by economic decline and the most reliant on the provision of public services.[12]

17. Good governance and the establishment and strengthening of the national apparatus in line with the principles of integrity, transparency and accountability are of paramount importance for achieving sustainable development and economic growth. The recovery of stolen assets is an important element that would allow a country to reinvest the funds in strengthening its domestic institutions.

V. Recovering assets derived from corruption

A. Obstacles in existing asset recovery practice

18. Asset recovery is a complex issue and the problems of States attempting to recover assets are diverse, including weaknesses in the prevention and control of money-laundering, loopholes in the legal framework and a lack of expertise, capacities and resources to successfully trace, freeze and confiscate assets both domestically and internationally.

19. Obstacles are created by the diversity of approaches taken by different legal systems, in particular between common and civil law, with respect to matters such as jurisdiction, evidentiary requirements, the relationship between criminal prosecution and recovery proceedings and whether civil proceedings could be used. Countries seeking the return of assets often face severe challenges in obtaining domestic freezing and confiscation orders that can form the basis for an international request and in obtaining enforcement of such judgements, in particular because of the high evidentiary and procedural standards required in the laws of developed countries where substantial proceeds are most likely to be concealed.

20. Most jurisdictions do not allow for the confiscation and return of assets, except on the basis of a criminal conviction or some other proceeding that establishes to a criminal standard of proof that offences have been committed and that the assets being sought are proceeds of such offences. Given that major corruption cases often involve officials at the highest levels, in some cases sovereign immunities might be raised as a defence. In other cases, laws may have been suspended or manipulated to ensure that the corrupt conduct of senior officials is not defined or subject to sanction as a criminal offence. As well, the accused may have escaped or died or the evidence for criminal conviction may be weak, even though there is considerable evidence as to the illicit origin of the proceeds.

21. The intermingling of proceeds with other assets or with the proceeds of other crimes can lead to situations where more than one State seeks the recovery of the same assets. Both the donor and recipient of the original aid donation might seek assets embezzled from foreign aid projects. Further, legal actions might be brought in the requesting or requested State by individuals or companies seeking compensation for the effects of corruption or other criminal offences, leading to scenarios in which competing claims might have to be resolved, either before or after the assets are returned.

22. Asset recovery is currently a very costly enterprise. The time and resources required are often inhibiting, in particular where the offenders whose assets have been traced have previously depleted such resources. The successful recovery of assets requires a substantial degree of expertise and commitment of resources. Yet, even where such commitments exist, the recovery effort may still not achieve success because domestic authorities lack the expertise and professional capacity to successfully investigate and prosecute the predicate offence and the laundering of corruption proceeds, to identify, trace, freeze, seize and, when still in the country, to confiscate those proceeds, and to collaborate internationally with those States to where assets have allegedly been diverted.

B. Nigeria and Kenya: two case studies

23. On the occasion of the first International Anti-Corruption Day, observed on 9 December 2004, the Executive Director of UNODC and representatives of Kenya and Nigeria launched an initiative aimed at preparing the ground for strengthening the capacity of the Kenyan and Nigerian institutional and legal frameworks to prevent the diversion and laundering of assets and to facilitate the return and disposition of such assets. In-depth assessments were conducted in both countries to examine the regulatory and institutional weaknesses, which had led to massive looting of assets in the past, and the legal and technical obstacles, which had hampered the successful handling of asset looting at both the national level and internationally.

24. The assessments, which were conducted in Nigeria from 20 July to 5 August 2005 and in Kenya from 6 to 10 February 2006 found that, while progress had been made in putting in place an effective anti-money-laundering regime, the effectiveness of preventive measures against the laundering of the proceeds of corruption and their transfer abroad continued to be hampered by a low level of penetration of the banking sector in both countries and a largely cash-based economy, as well as the existence of an alternative remittance system operating outside the formal financial sector.

25. In both countries, the legal framework relevant to the prevention of money-laundering, the effective investigation, prosecution and sanctioning of offences related to the laundering of the proceeds of corruption and the recovery of the proceeds of corruption has been introduced in the past years and is still at a relatively early stage of implementation. In some instances the necessary rules, regulations and guidance for implementing the legislation have not yet been developed. Specifically with respect to asset recovery, the assessments found that there continued to be only limited awareness in the wider law enforcement community of the importance of this work. Enforcement agencies still attached a higher priority to the investigation and prosecution of the predicate offences, while investing fewer institutional capacities to the tracing, seizure and confiscation of the proceeds of crime and corruption. Institutional and professional skills to implement the domestic legal framework needed further strengthening. The relevant institutional responsibilities were unnecessarily fragmented and not always well coordinated among enforcement authorities.

26. Apart from the weaknesses in the domestic domain, the assessment reports also pointed to obstacles to asset recovery emanating from the nature of international cooperation, such as different legal requirements for mutual assistance and problems in communication. Based on their findings, the experts recommended legislative and other measures aimed at preventing assets from leaving the countries and strengthening the mechanisms to recover assets that have already been taken abroad.

C. Asset recovery as a fundamental principle of the Convention

27. The United Nations Convention against Corruption includes substantive provisions laying down specific measures and mechanisms for cooperation with a

view to asset recovery, while maintaining the flexibility in recovery action that might be warranted by particular circumstances.[13]

28. Recognizing that recovering assets once transferred and concealed is a particularly costly and complicated process, article 52 of the Convention incorporates elements intended to prevent and detect illicit transfers in addition to the provisions against money-laundering contained in articles 14, 23 and 24 of the Convention. Article 52 requires States parties to apply enhanced measures of scrutiny in addition to normal due diligence to accounts sought or maintained by or on behalf of politically exposed persons as well as their family members and close associates.[14]

29. The new asset recovery framework under the Convention provides two basic options for initiating recovery procedures: article 53 foresees a regime of direct recovery introducing the concept of civil asset forfeiture, while articles 54 and 55 establish a framework enabling international cooperation for confiscation.[15]

30. Article 53 is formulated in a way that permits a State party to seek in another State party civil recovery of property acquired through offences established in accordance with the Convention. Under the Convention, States parties are encouraged to assist one another in civil matters in the same way as is the case for criminal matters (art. 43, para. 1).[16]

31. Under the regime on international cooperation for confiscation established by articles 54 and 55 of the Convention, a State party that receives a request for confiscation from another State party is required to either submit an order issued by the requesting State party for direct enforcement by its own authorities (art. 55, para. 1 (b)), or to submit the request to its competent authorities in order to obtain a domestic order of confiscation and, if granted, give effect to it (art. 55, para. 1 (a)). With a view to further promoting and facilitating cooperation, article 55 lays down the necessary information to be included in a request for confiscation (art. 55, para. 3) and provides guidelines and criteria for refusing cooperation (art. 55, para. 7).[17]

32. Effective asset-recovery provisions will support the efforts of States to redress the worst effects of corruption while sending at the same time, a message to corrupt officials that there will be no place to hide their illicit assets. Accordingly, article 51 provides for the return of assets to States of origin as a fundamental principle of the Convention.

33. The Convention incorporates a series of provisions that facilitate the return of the assets to the requesting State party. Thus, it imposes the obligation for the States parties to adopt such legislative and other measures that would enable their competent authorities, when acting on a request made by another State party, to return confiscated property, taking into account the rights of bona fide third parties (art. 57, para. 2). In particular in the case of embezzlement of public funds or of laundering of embezzled public funds, the Convention requires States parties to return confiscated property, upon request, to the requesting State party on the condition of a final judgement in the latter State (although this condition can be waived) (art. 57, para. 3 (a)). In the case of any other offence covered by the Convention, two additional conditions for the return are recognized alternatively, namely, that the requesting State party reasonably establishes its prior ownership of such confiscated property or that the requested State party recognizes damage to the

requesting State party as a basis for returning the confiscated property (art. 57, para. 3 (b)). In all other cases, the requested State party shall give priority consideration to returning confiscated property to the requesting State party or to its prior legitimate owners, or to compensating the victims (art. 57, para. 3 (c)).[18]

34. Article 43 obliges States parties to extend the widest possible cooperation to each other in the investigation and prosecution of offences defined in the Convention. With regard to asset recovery in particular, the article provides, inter alia, that "in matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties" (art. 43, para. 2). In this, the Convention goes beyond previous international and regional legal instruments and contains provisions that require significant changes in domestic law and institutional arrangements for many States.

35. It remains to be seen how the new provisions of the Convention against Corruption will have an impact on the practice of asset recovery. The provision of technical assistance (arts. 60-62) in the area of asset recovery will be an important component. Expertise in this area is scarce and there will be a need for the Conference of the States Parties to devise solutions to respond to the probable need for technical assistance and advice. In order to translate the Convention's provisions into anti-corruption measures on the ground, it is essential that States with limited resources and capacity receive the required support and assistance to comply with the requirements of the Convention.

VII. Conclusions and recommendations: the way forward

36. The priority given by many States to signing and ratifying the United Nations Convention against Corruption has exceeded expectations and led to the entry into force of the Convention in record time. The first session of the Conference of the States Parties, the Convention's review and implementation mechanism, is scheduled to be held in December 2006. It will take important decisions on the way it conducts its work and fulfils its challenging mandate. In order to allow the Conference to base its decisions on a broad membership, a strong call is made for States to ratify or accede to the Convention as a matter of urgency, which will allow them to participate in the Conference as full members.

37. The Conference of the States Parties has a wide mandate. It will be important to fully support the Conference to carry out its mandated work, in particular through devising appropriate mechanisms to allow the Conference to review the implementation of the Convention.

38. The United Nations Convention against Corruption provides a balanced and broad framework for domesticaction against corruption. Every effort should be made to operationalize the Convention as quickly as possible, bearing in mind that a prerequisite for successful domestic action against corruption is the capacity of the criminal justice system to support such action.

39. In this context, the Conference of the States Parties will need to develop sound methods and formulate the necessary action to increase the capacity of countries to fully implement the United Nations Convention against Corruption, where required.

Notes

[1] Conference entitled "Alliance for Integrity—Government and Business Roles in Enhancing African Standards of Living", held in Addis Ababa on 7 and 8 March 2005, jointly organized by the Organization for Economic Cooperation and Development, the Global Compact, Transparency International and the New Partnership for Africa's Development of the African Union, and during the "Global Compact Summit: China", held in Shanghai, China, on 30 November and 1 December 2005.

[2] See for instance, the essays collected in Vito Tanzi, *Policies, Institutions and the Dark Side of Economics* (Northampton, Massachusetts, Edward Elgar Publishing, 2000).

[3] President Thabo Mbeki [of South Africa] addressing the Second National Anti-Corruption Summit, Tshwane, South Africa, on 22 March 2005.

[4] European Parliament, "'Corruption hurts the poor', Members of the European Parliament (MEPs) back report on development aid and the fight against corruption", 10 April 2006.

[5] United Nations Development Programme, "Corruption and Good Governance", discussion paper No. 3 (New York, UNDP, 1997).

[6] World Bank, *Can Africa Claim the 21st Century?* (Washington D.C., World Bank, 2000).

[7] Friedrich Schneider, *The Size of the Shadow Economies of 145 Countries all over the World: First Results over the Period 1999 to 2003* (Bonn, Germany, Institute for the Study of Labour, IZA Discussion Paper No. 1431, December 2004).

[8] http://news.bbc.co.uk/1/hi/world/africa/635720.stm.

[9] Statement of the Nigerian representative at the workshop on asset recovery organized by the Ad Hoc Committee for the Negotiation of a Convention against Corruption. See the "Global study on the transfer of funds of illicit origin, especially funds derived from acts of corruption" (A/AC.261/12).

[10] Bola Ige, "Abacha and the bankers, cracking the conspiracy", *Forum on Crime and Society*, vol. 2, No. 1 (December 2002), (United Nations publication, Sales No. E.03.IV.2), pp. 111-117.

[11] Anwar Shah, *Human Development and Public Services* (Washington D.C., World Bank, 2000).

[12] http://www1.worldbank.org/publicsector/anticorrupt/index.cfm.

[13] The United Nations first became engaged in the matter in December 2000, when the General Assembly, in its resolution 55/188 of 20 December 2000, called upon Member States to cooperate through the United Nations system by devising ways and means of preventing and addressing illegal transfers and to support Member States in repatriating illegally transferred funds. The Economic and Social Council, in its resolution 2001/13 of 24 July 2001, requested the Secretary-General to prepare a global study on the transfer of funds of illicit origin, especially funds derived from acts of corruption. The study focused especially on funds derived from acts of corruption and the impact on economic, social and political progress, in particular in developing countries (see A/AC.261/12).

[14] The Commonwealth Working Group on Asset Repatriation, which was established as a follow-up initiative to the "Aso Rock Commonwealth Declaration on Development and Democracy: Partnership for Peace and Prosperity", adopted at the summit in Abuja in December 2003, has stressed that the United Nations Convention against Corruption has made an important step forward by expanding the scope of application of enhanced scrutiny to any politically exposed person, regardless of their nationality.

[15] See, inter alia, the meeting of experts on the illegal transfer of funds and the repatriation of such funds to countries of origin, held in Vienna from 26 to 28 March 2001; the UNODC *Anti-Corruption Toolkit*, developed in the context of the Global Programme against Corruption, 2002, tool 40 (Mutual Legal Assistance); the Global study on the transfer of funds of illicit origin, especially funds derived from acts of corruption (A/AC.261/12), paras. 33-36; and A/58/125, para. 16.

[16] Article 43, paragraph 1, of the United Nations Convention against Corruption makes inter-State cooperation in criminal matters mandatory and calls upon States parties to consider as an option cooperation in civil and administrative matters.

[17] Cooperation may be refused or provisional measures lifted if the requested State party does not receive sufficient and timely evidence or if the property is of a *de minimis* value. However, before lifting any provisional measure, the requested State party shall, wherever possible, give the requesting State party an opportunity to present its reasons in favour of continuing the measure (art. 55, paras. 7-8).

[18] See A/59/203, para. 31.